

HOUSE BILL NO. 552

INTRODUCED BY J. SHOCKLEY

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE STATUTORY CAP ON ADMINISTRATIVE CHARGES FOR IRRIGATION DISTRICTS; AMENDING SECTION 85-7-2103, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-7-2103, MCA, is amended to read:

"85-7-2103. All irrigable lands chargeable alike. (1) (A) All irrigable lands in each irrigation district and all lands in each subdistrict of the district, except those lands that are included within the district because of the exchange or substitution of water under the provisions of 85-7-1912, ~~shall~~ must pay at the same rate for all purposes for which the lands are charged, except as otherwise provided by law. There may be an administrative charge ~~OF \$5 TO \$75, SUBJECT TO SUBSECTION (1)(B), OF \$5 TO \$75~~ against each separately owned tract of land regardless of its size, as provided in 85-7-2104. The administrative charge is in addition to the annual tax levied under 85-7-2104.

(B) The administrative charge ALLOWED PURSUANT TO SUBSECTION (1)(A) MAY EXCEED \$75, BUT IF THE CHARGE EXCEEDS \$75, THE CHARGE must be determined based on the actual costs for administration of the district or subdistrict and, except for capital costs and except as otherwise provided in this section, the actual costs of distribution of water.

(2) Whenever water used for the irrigation of any lands within an irrigation district or subdistrict is obtained by pumping to different elevations, the cost of maintenance, operation, and pumping to each separate elevation must be apportioned and levied upon the lands lying under the ditch or ditches running from that particular elevation, in a manner determined fair and equitable by the board of commissioners after considering the facts in each case. This apportionment must be made by the board of commissioners and included each year in the assessment provided for by 85-7-2104. The amount of the assessment for maintenance, operation, and pumping of water to each separate elevation, whenever there are different elevations, must be determined by the board in a manner and upon notice to the persons interested in the district or subdistrict as the board in its rules may provide.

(3) Whenever a contract has been made with the United States, the lands within the district or of a subdistrict if the contract substantially benefits the subdistrict, whether originally included or later annexed to the district or subdistrict, must pay in accordance with the federal reclamation laws and the public notices, orders, and regulations issued under the reclamation laws and in compliance with any contracts made by the United States with the owners of the lands and in compliance with the contract between the districts and the United States.

(4) Whenever a contract has been made with the state of Montana, the lands within the district or of a subdistrict if the contract substantially benefits the subdistrict, whether originally included or later annexed to the district or subdistrict, must pay in accordance with state laws and public notices and rules issued under the laws and in compliance with any contract made by the state with the owners of the lands and in compliance with the contract between the district and the state.

(5) Whenever the works necessary for the completed project are constructed progressively over a period of years and whenever a portion of the lands within the district are or can be irrigated 1 year or more before the completion of the entire project, those lands irrigated or that can be irrigated through the built portion of the project must pay for the cost of operating that portion of the project serving them with irrigation water and must also pay the portion of the interest charges as its irrigable area bears to the irrigable area of the entire project.

(6) Whenever lands have appurtenant to the land a partial water right or partial rights in a system of irrigation other than that of the district or subdistrict, the amounts payable must be equitably apportioned.

(7) Whenever the owners of a portion of the lands within an irrigation district choose to install a gravity system to irrigate those lands, the cost of constructing the gravity system must be apportioned among and levied upon the lands irrigated by the gravity system in a manner determined to be equitable by the board. The levy must be included each year in the assessment charged under 85-7-2104."

NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2001.

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